



MORTGAGE BANKERS ASSOCIATION

December 2, 2021

Lopa P. Kolluri
Principal Deputy Assistant Secretary
Office of Housing – Federal Housing Administration
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Proposed Origination-Focused Amendments to the FHA Single Family Housing Policy Handbook

Dear Principal Deputy Assistant Secretary Kolluri:

The Mortgage Bankers Association (MBA)¹ thanks the Federal Housing Administration (FHA) for its continued work to strengthen its single-family mortgage insurance program. MBA thanks FHA, additionally, for valuing and expanding opportunities for regular feedback from industry participants – including MBA and its members.

In the spirit of ongoing communication to further improve FHA-insured lending, MBA has compiled a list of suggested origination-focused revisions to the FHA Single Family Housing Policy Handbook, which is presented in the following pages. These proposed changes represent direct feedback from industry participants, who work each day to extend the benefits of the FHA program to low- to moderate-income households, first-time homebuyers, and historically underserved borrowers nationwide.

We hope you consider the following proposed revisions, which we believe would make the FHA program more attractive for borrowers and lenders alike. MBA welcomes the opportunity to provide further context on any of these proposals or arrange follow-up meetings for discussion with our members.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 1,900 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

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Should you have questions or wish to discuss these comments, please contact Hanna Pitz, Assistant Director of Housing Finance Policy, at (202) 557-2796 and hpitz@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is fluid and cursive, with a prominent initial "P" and a trailing flourish.

Pete Mills
Senior Vice President
Residential Policy and Member Engagement
Mortgage Bankers Association

Proposed Origination-Focused Amendments

Section ²	Description
I.A.3.c.iv(B)(3)(b)(v) – pdf p.38	Conflicts of Interest. The conflicts of interest provision should be reviewed to analyze whether it unduly restricts informed consumer choice, and why FHA feels it necessary for managing risk given other industry actors (such as the GSEs and 47 out of 50 states) allow for more leniency. Barring those who have direct impact on the approval decision (appraisers, inspectors, and underwriters), allowing for employees and third-party originators to have multiple roles subject to state law opens opportunities for borrowers to work more with people they trust. This policy change would align FHA with the GSEs.
I.A.5.a.v(C) – pdf p.56	Sponsored Originator Identification. FHA should allow sponsored originators who do not have a federal Employer Identification Number (EIN) to use a Social Security Number. While most have an EIN, some originators are sole proprietors or entities subject to state laws that do not require an EIN. A Social Security Number is a unique identifier and should be a sufficient alternative to an EIN.
II.A.1.a.i(A)(2)(b) – pdf p. 146	URLs on Internet Documents. FHA should eliminate the requirement to provide URLs for documentation obtained via the internet, as most often the documentation is obtained from behind a password-protected log-in and the URL is ineffective. Additionally, many bank statements auto-download and do not provide a URL at all. Instead, FHA should require that documents obtained via the internet have the same information (account number, etc.) that would be found on an original hard copy, including the date it was obtained.
II.A.1.a.i(E)(1)(a) – pdf p. 154	Sales Contract Signature Requirements. FHA requires sales contracts to be signed by borrowers on the mortgage, or family members as outlined in the Handbook. If a borrower chooses to include someone on the sales contract who does not meet FHA’s definition of a family member, FHA guidance requires lenders to go back to the borrower and seller to have the contracts amended. MBA believes there is little added risk to the borrower or FHA to allow other parties to sign the contract if the borrower would like them to do so.
II.A.1.a.i(E)(1)(a) – pdf p. 155	Definition of a Family Member. FHA considers aunts and uncles to be acceptable family members, but not nieces and nephews. Because the degree of relation is the same, FHA should add nieces and nephews to the list of acceptable family members.

² All sections are current for the Handbook issued November 9, 2021. Pdf page numbers refer to page as indicated by the pdf reader, not the Handbook document, allowing for a typed search.

<p>II.A.1.b.ii(A)(4) – pdf p.171</p> <p>II.A.6.b.ii – pdf p.394</p>	<p>Mortgage and Note Signatures. FHA should address a discrepancy between the guidance on whether all borrowers or “at least one” borrower on the Note must be on the title.</p>
<p>II.A.1.b.iv(A)(3)(b) – pdf p.184</p>	<p>Property Flipping. FHA does not allow for a property to be resold within 90 days of the last sale. FHA could adopt a more practical policy to mitigate the risk of flipping. MBA suggests FHA change the guidance to require two appraisals for any property sold within 180 days from the last sale.</p>
<p>I.A.1.b.iv(B)(3)(c) – p.188</p>	<p>Self-Sufficiency Test. FHA should consider eliminating the self-sufficiency test on 3-4 unit properties.</p>
<p>II.A.4.b.iii(K)(2)(a) – pdf p.228</p>	<p>Purchase after Sale of Home in Forbearance. FHA should include guidance allowing for borrowers who sold a home in forbearance prior to making three timely payments to be approved for a new FHA mortgage without manual underwriting. In the late payments section (2)(a), language could be added to the last bullet stating, “unless it can be documented that the three consecutive payments were not made solely due to the sale of the home.” This recommendation is limited to primary residences.</p>
<p>II.A.4.b.iii(K)(2)(b) – pdf p.229</p>	<p>Cash-out Loans Post Modification. FHA should include explicit language regarding seasoning of modifications for cash-out refinances. In the purchase and no-cash-out section, there is language that specifically notes that modifications require six-month seasoning. The cash-out section contains a requirement for 12-month seasoning post completion of a forbearance plan, but does not explicitly mention modifications. MBA suggests that FHA include language (like that provided in the purchase and no-cash out section), which explicitly states something to the effect of: “Where a Mortgage has been modified, the Borrower must have made at least twelve payments under the modification agreement to be eligible for a cash-out refinance.”</p>
<p>II.A.4.b.iv(l) – pdf p.235</p>	<p>Timeshares. FHA classifies timeshares in Handbook 4000.1 as installment loans. The AUS, however, often identifies timeshare properties as mortgages and designates the loan as a refer. If the borrower in question is delinquent on the timeshare, the loan is not eligible due to the payment history on installment debt. FHA should update the TOTAL Scorecard to recognize all timeshares as non-mortgage debt, enable lenders to ignore the timeshare installment debt in the TOTAL Scorecard (Fannie allows this in DU), or add language to Handbook 4000.1 confirming that if the refer is due to a timeshare that is showing as a mortgage, lenders can ignore that in determining whether the loan meets manual underwriting requirements.</p>
<p>II.A.4.c.ii(C)(3) – pdf p.242</p>	<p>Verbal VOE. In a recent Handbook update, FHA eliminated the option to document the borrower’s previous employment through a verbal VOE. FHA requires lenders to document the previous employment to show stability in the same line of work, establishing the likeliness of the current income to continue (when the current position has been held less than two years). At a minimum, verbal VOEs contain dates of employment and position</p>

	held. These are the key items necessary to determine stability. FHA should allow for verbal VOEs for previous employment, removing “written” with “verbal or written” in the Handbook.
II.A.4.c.x(B)(2) – pdf p.247	Stability of Self-Employment Income. Due to the effects of the COVID-19 pandemic, FHA should consider temporarily waiving the requirement to downgrade to refer a borrower who has more than a 20 percent decline year over year.
II.A.4.c.xi(A) – pdf p.248	Frequent Change in Employment. As long as the borrower’s employment is documented for the past two years, MBA recommends eliminating the extra requirements for frequent changes in employment. For many workers who are in service sector jobs, it is common to see more movement from employer to employer, perhaps without an increase in income. Requiring additional documentation is a burden, particularly for the first-time homebuyers FHA is designed to serve.
II.A.4.c.xi(B) – pdf p.248	Gaps in Employment. The requirement that a borrower be on the job for six months poses a challenge for some borrowers – particularly women re-entering the workforce. FHA should consider making an exception for this rule if the borrower is salaried, working full time, and in the same line of work in which they were previously employed.
II.A.4.c.xii(l)(2)(b)(i) – pdf p.257	Rental Income. When a borrower has no rental income history on a one-unit property, FHA requires three separate documents to be analyzed. FHA could simplify by requesting two documents.
II.A.4.c.xii(l)(3)(b)(i) – pdf p.259	Verifying Free and Clear Rental Properties. Lenders currently are required to obtain an appraisal of any other real estate holding with limited or no history of rental income under the TOTAL scorecard. The appraisal is conducted to demonstrate at least 25 percent equity. There is no exception, however, for properties that are owned free and clear. Under the current guidance, an appraisal is still ordered in these cases, sacrificing limited time and resources. FHA should add an exception to the Handbook for properties that are owned free and clear, as documented on the homeowner’s insurance.
II.A.4.d.i(A) – pdf p.265 II.A.4.d.iii(A)(2) – pdf p.270	Documenting Large Deposits. FHA guidance on determining large deposits in need of further documentation should be based on a comparison to the borrower’s monthly income rather than the adjusted value of the home. The Handbook, for example, could require further documentation for recently opened accounts and recent individual deposits of more than 50 percent of the borrower’s monthly income. This would be a better measure of what would be considered “large” deposits for a borrower, and would align with the GSEs’ requirements.
II.A.4.d.ii(B) – pdf p.269	Minimum Required Investment. FHA restricts borrowers from using secondary financing from HUD-approved entities towards the 3.5 percent minimum required investment. MBA suggests that secondary financing is most helpful when it applies to the minimum required downpayment, and if

	the organization providing the financing is HUD-approved, FHA should permit this financing.
II.A.4.d.iii(H)(3) – pdf p.277	Rent Below Fair Market. FHA should reconsider the rent below fair market guideline for inducement to purchase. MBA members have found it is not uncustomary for a seller to offer a buyer a reduced rental rate – not as an inducement to purchase the home, but simply to give the seller the time to find a new home and schedule closing simultaneously with sale of their existing home so they can use proceeds from the sale to purchase the new home. MBA recommends, additionally, that FHA should consider an exception to inducement protocol when a tenant’s rent is greater than 10 percent below the market rate because the tenant benefits from local rent control policies such as limited year over year rent increases.
II.A.4.d.iii(J)(1)(c) – pdf p.280	Eliminate Burdensome Documentation. When a nonprofit providing secondary financing is tied to a government entity, the additional documentation required to prove this fact is cumbersome for borrowers and lenders to obtain to FHA’s satisfaction. Small cities often are charged with distributing the funds and the facilitators do not understand what lenders are asking of them. Lenders spend time and resources guiding them through the process. The requirement adds burden for communities that may already need more help with the process.
II.A.4.d.iii(K)(1)(c) – pdf p.284	Collateralized Downpayment. In the past, a borrower could borrow against a paid off car or similar collateral for their downpayment. One of the guidelines was that the loan had to come from an independent third party. In recent years, FHA stopped allowing the use of collateralized debt toward the downpayment – except for the use of a financial asset or real property. FHA did not, however, do away with the requirement that the loan collateralizing that financial asset must be from a third party. Given the objective and concrete value of a financial asset, MBA suggests this requirement is not necessary, as there would be little incentive for fraud or overvaluation of the asset by the lender.
II.A.7.c – pdf p.398	Disaster-Related Inspection Dates. FHA should allow lenders to conduct disaster damage inspections on their own timeline, as FEMA disaster declaration start and end dates are not always timely. The burden of risk is on the lender to not seek FHA insurance on properties affected by natural disasters. If a lender attempted to file a claim on a damaged property, FHA would deny the claim and the lender would be exposed to the risk. Additionally, lenders report delays closing on a new, undamaged homes in disaster-impacted neighborhoods, which has put families in danger as their current residence may be damaged.
II.A.7.c – pdf p.398	Disaster-Related Inspections. FHA should allow lenders the opportunity to provide evidence (satellite images, map overlays) that there was no impact on the property, and that no disaster inspection is needed.

<p>II.A.7.c – pdf p.398</p>	<p>Disaster-Related Inspections. FHA should remove the requirement for lenders to obtain an interior inspection from the same FHA appraiser who conducted the initial inspection.</p>
<p>II.A.8.a.viii(A) – pdf p.423</p>	<p>Eliminate As-is Appraisal on 203(k) Refinances. The as-is appraisal adds no material value and is an added cost to the borrower.</p>
<p>II.A.8.a.xiv(A)(1) – pdf p.428</p>	<p>Conflict of Interest. Sometimes conflict of interest guidance impedes on common-sense transactions. In a 203(k) transaction, for example, a borrower may be an employee of a builder/contractor and wants to be the general contractor for the renovation project to ensure workmanship and potentially receive a cost discount. Current guidance does not allow for this under conflict-of-interest policies. Similarly, restrictions on involving parties with landlord/tenant relationships excludes persons who want the opportunity to buy where they already live.</p>
<p>II.A.8.d.v(A)(1)(b) – pdf p.457 II.A.8.d.vi(A)(1)(b)(ii) – pdf p.460</p>	<p>Parity for Loans Not in Name. FHA guidance states that for cash-out refinances, if the loan does not show on the borrower’s credit report or the loan is not in their name, the borrower must provide additional documentation. The section of the Handbook for no-cash-out refinances only requires proof of payment if the loan does not show on the credit report (no mention of the loan not being in their name). MBA recommends the requirements be harmonized.</p>
<p>II.A.8.d.v(A)(1)(b) – pdf p.457 II.A.8.d.vi(A)(1)(a)(ii) – pdf p.459 II.A.8.d.vi(B)(1)(a)(ii) – pdf p.463 II.A.8.d.vi(C)(2)(a)(ii) – pdf p.467</p>	<p>Verification of Occupancy. Lenders are required to document occupancy with utility bills or employment documentation. This is particularly cumbersome for streamline refinances in which lenders do not obtain paystubs or W-2s. FHA should consider including language to allow for third-party documentation for verification of occupancy. Lenders rely on third-party vendors for data verification and fraud prevention. These vendors provide more evidence of occupancy than the current guidelines require and would further mitigate risk for FHA. FHA could simply add “or documentation from a Third-Party Vendor” to the list of acceptable options.</p>
<p>II.A.9.c – pdf p.545</p>	<p>Revise 203(k) Consultant Fee Schedule. FHA should update the consultant fee schedule.</p>
<p>II.D.3.b – pdf p.592</p>	<p>Minimum Property Requirements. Rather than appraisers listing all the minimum property requirements and minimum property standards met, appraisers should be instructed to simply confirm that, “This property meets the minimum property requirements and minimum property standards as defined by Handbook 4000.1.” Lenders then would be able to rely on that determination and trust that the authorized appraiser is current with respect to the requirements and standards.</p>
	<p>Requirements Based on Note Date. FHA should base timing requirements on the note date of the loan rather than the date the case was assigned. To make corrections, lenders currently must cancel the case number, start a new case and get a new appraisal.</p>

	<p>Private Flood Insurance. FHA should issue a final rule and subsequent Handbook change allowing for acceptance of private flood insurance policies</p>
	<p>Appraisal Extensions. FHA should allow for the completion of the Compliance Inspection Report (HUD 92051, or Fannie Mae Form 1004D) after the corresponding appraisal expires. FHA could prescribe a total timeframe for the completion of the inspection.</p>
	<p>203(k) Supplemental Fee. FHA should consider capping the 203(k) supplemental fee.</p>
	<p>Financing Consultant Fee. FHA should allow 203(k) consultant fees to be financed.</p>
	<p>Waive the UFMIP for 203(k). FHA should consider waiving the upfront Mortgage Insurance Premium for 203(k) loans as an incentive to enhance usage of this offering.</p>
	<p>Redesign and Reinstate the 203(k) Investor Program. With the right guardrails, FHA could responsibly reinstate the 203(k) investor program. If FHA undertakes this policy change, MBA recommends:</p> <ul style="list-style-type: none"> - Four-property maximum - Consultant required on all deals - No Self Help - 15 percent required down payment - Required financed payments during construction - Reserve requirement two-times that of owner occupied properties - More conservative FICO and DTI requirements